

**REMARKS****The 35 USC §112 Rejections**

Claims 1, 12-14, 17-19 were rejected under 35 U.S.C. §112, first and second paragraphs, for lack of enablement and being indefinite because the specification does not disclose a repeatable process to obtain the monoclonal antibodies, hybridomas or phage display clones. Applicants submit that the claimed hybridomas have been deposited to obviate the rejection. Applicants hereby submit copies of deposit receipts. Applicants submit that the biological materials described in the specification as filed are the same as the deposited materials. Claims 12-14 and 19 have been canceled. Accordingly, Applicants respectfully request that the rejection of claims 1, 17-18 under 35 U.S.C. §112, first and second paragraphs, be withdrawn.

The 35 U.S.C. §103 Rejection

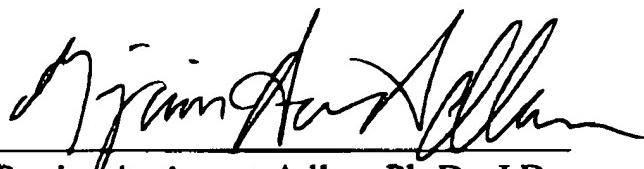
Claims 7-9 and 16 were rejected under 35 U.S.C. §103 as being unpatentable over U.S. patent No. 5,686,600 in view of U.S. patent No. 5,837,242 and U.S. patent No. 5,870,852. This rejection is respectfully traversed.

Applicants submit that claim 7 has been amended to obviate the rejection. Claim 7 is drawn to a pest eradication product comprising a first antibody or fragment thereof directed against the midgut of a pest, wherein said first antibody or fragment thereof is fused to a second antibody or fragment thereof directed against an antigenic epitope of a toxin. Claim 7 also recites the claimed first and second antibodies. Applicants submit that the cited patents do not teach or suggest a pest eradication product comprising the antibodies disclosed herein. Therefore, the invention as a whole is not *prima facie* obvious to one of ordinary skill in the art at the time the invention was made. Accordingly, Applicants respectfully submit that the rejection of claims 7-9 and 16 under 35 U.S.C. §103 be withdrawn.

This is intended to be a complete response to the Final Office Action mailed December 10, 2002. If any issues remain outstanding, the Examiner is respectfully requested to telephone the undersigned attorney of record for immediate resolution.

Respectfully submitted,

DATE: April 29, 2003



Benjamin Aaron Adler, Ph.D., J.D.  
Registration No. 35,423  
Counsel for Applicant

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# ATCC

10801 University Blvd - Manassas, VA 20110-2209 - Telephone: 703-365-2700 - FAX: 703-365-2745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.**

To: (Name and Address of Depositor or Attorney)

University of Texas at Austin  
Attn: Bob G. Sanders  
1 University Station C0900  
Austin, TX 78712

Deposited on Behalf of: The Foundation for Research

**Identification Reference by Depositor:**

Hybridoma Cell Line: FA1	PTA-4703
Hybridoma Cell Line: FA7	PTA-4705
Hybridoma Cell Line: FA8	PTA-4706
Hybridoma Cell Line: FA9	PTA-4707
Hybridoma Cell Line: FA14	PTA-4710
Hybridoma Cell Line: FA15	PTA-4711

**Patent Deposit Designation**

The deposits were accompanied by: a scientific description, a proposed taxonomic description indicated above. The deposits were received February 3, 2003 by this International Depository Authority and have been accepted.

AT YOUR REQUEST:  We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

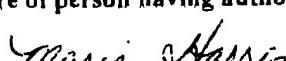
If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested February 27, 2003. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

  
\_\_\_\_\_  
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: March 20, 2003

cc: Benjamin A. Adler, Ph.D. J.D.  
(Ref: Docket or Case No.: D6017CIP)

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1 University Station C0900  
Austin, TX 78712

Deposited on Behalf of: The Foundation for Research

**Identification Reference by Depositor:**

Hybridoma Cell Line: G1  
Hybridoma Cell Line: G2  
Hybridoma Cell Line: G4  
Hybridoma Cell Line: G5  
Hybridoma Cell Line: G6  
Hybridoma Cell Line: G7

**Patent Deposit Designation**

PTA-4713  
PTA-4714  
PTA-4716  
PTA-4717  
PTA-4718  
PTA-4719

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Signature of person having authority to represent ATCC:

Marie Harris  
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Marie Harris, Patent Specialist, ATCC Patent Depository

Date: March 20, 2003

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(Ref. Docket or Case No.: D6017CIP)

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1 University Station C0900  
Austin, TX 78712

**Deposited on Behalf of:** The Foundation for Research**Identification Reference by Depositor:**

Hybridoma Cell Line: FA4  
Hybridoma Cell Line: FA10  
Hybridoma Cell Line: FA13  
Hybridoma Cell Line: FA17  
Hybridoma Cell Line: G3

**Patent Deposit Designation**

PTA-4704  
PTA-4708  
PTA-4709  
PTA-4712  
PTA-4715

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The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested April 8, 2003. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Mari Harris  
Mari Harris, Patent Specialist, ATCC Patent Depository

Date: April 25, 2003

cc: Benjamin A. Adler, Ph.D. J.D.  
Ref: Docket or Case No.: D6017CIP

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